

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

POLK COUNTY, IOWA,

Plaintiff,

V.

POPULOUS, INC., f/k/a HOK SPORT, INC.,

Defendant.

No. 11-235

**Removal of action from the
District Court for Polk County, IA
Pursuant to 28 U.S.C. § 1441
(Diversity of Citizenship)**

NOTICE OF REMOVAL OF CIVIL ACTION

TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF IOWA AND TO PLAINTIFF HEREIN AND TO ITS
ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that pursuant to 28 U.S.C. § 1441, *et seq.*, Populous, Inc. f/k/a/ HOK Sport, Inc. (“Populous”), defendant in the above-captioned action, hereby removes this action from the District Court for Polk County, Iowa. Removal is based on 28 U.S.C. §§ 1332 and 1441.

In support of such removal, Populous states as follows:

1. On or about April 20, 2011, plaintiff filed its petition in the District Court for Polk County, Iowa. The state court action was assigned Case No. LACL121936. True and correct copies of the summons and petition in the state court action are attached hereto as **Exhibit A**.

2. Populous received the summons and petition by mail on April 23, 2011; Populous accepted service by return mailing on April 29, 2011. This notice is therefore timely filed within thirty (30) days of Populous' receipt of the petition, as required under 28 U.S.C. 1446(b).

3. Populous has not filed an answer or responsive pleading in the state court, and no proceedings have occurred in the state court action, beyond plaintiff's filing of its petition.

4. According to the petition, plaintiff is a political subdivision of the State of Iowa, organized and existing under the laws of the State of Iowa. For diversity purposes, a political subdivision of a state is recognized as a citizen of its respective state. *See e.g. Moor v. County of Alameda*, 411 U.S. 693 (1973); *Illinois v. City of Milwaukee*, 406 U.S. 91 (1972).

5. Populous, f/k/a HOK Sport, Inc. is a Missouri Corporation with its principal place of business located in Kansas City, Missouri.

6. At the time it entered into the written contract with plaintiff, HOK Sport, Inc. was a wholly owned subsidiary of HOK Sports Facilities Group, LLC, a Missouri limited liability company.

7. At that same time, HOK Sport Facilities Group, LLC was a wholly owned subsidiary of HOK Group, Inc, a Delaware corporation.

8. Plaintiffs' petition references damages in the amount of \$7,000,000, and also seeks additional compensation for interest and costs.

9. This matter therefore involves a civil action between citizens of different states, and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. Accordingly, this is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332, and may be removed to this Court under 28 U.S.C. § 1441(a).

10. Written notice of the filing of this Notice of Removal is being contemporaneously filed in the District Court for Polk County, Iowa.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was served by (____) United States Mail, postage prepaid; (X) ECF system filing (____) fax; (____) E-mail; (____) Federal Express; and/or (____) Hand Delivery this 23rd day of May , 2011, to:

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 /s/ John A. Templer, Jr.
Attorney for Defendant